



COMMUNITY DEVELOPMENT DEPARTMENT

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MAY 22, 2007

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Associate Planner (AP) Golden, and
Minutes Clerk Johnson.

Chair Benich called the meeting to order at 7:01 p.m., inviting all present to join the pledge of allegiance to the flag. *Chair Benich announced that at 6:00 p.m. – immediately preceding the regular meeting - the Planning Commissioners and Staff had engaged in a workshop regarding changes to the Residential Development Control System (RDCS) Standards and Criteria.*

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Benich presented retiring Commissioner Ralph Lyle with a card, gift, and 'extreme thanks for the outstanding work' he has completed in the 13 1/2 years on the Planning Commission. Other Commissioners paid tribute with that of the Chair's to the devotion to duty Commissioner Lyle has exhibited. Commissioner Lyle graciously responded, and gave accolades to the community, including the developers who are 'interested and like to work with the Commission'. "I owe a lot to my fellow Commissioners, the residents, and the Planning Department staff, from whom I've learned much and enjoyed more. I give my thanks to all," Commissioner Lyle said.

PM Rowe advised that the Planning Staff will be hosting Commissioner Lyle with a luncheon in the near future and will present their gift at that time. He further advised that the City Council will acknowledge the hard work and devotion of Commissioner Lyle in an upcoming City Council meeting.

With no others present indicating a wish to speak to matters not appearing on the agenda, the opportunity for public comment was closed.

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MINUTES:

MAY 8, 2007

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE MAY 8, 2007 MINUTES WITH THE FOLLOWING REVISIONS:

Page 5, paragraph 8, and line 2: ...too much residential *feel*...

Page 6, bottom paragraph, line 4: ... preserved ~~trees~~ on Monterey larger *project*.

Page 8, paragraph 7, line 2: ...~~Oriental Asian~~

Page 8, bottom paragraph, line 1: open a Vietnamese *restaurant*

Page 9, paragraph 1, line 3: ~~Oriental Asian~~ line

Page 10, paragraph 4: the ~~R~~CDS *downtown* boundaries

Page 11, paragraph 8: "~~Vistability~~" "Visitability"

Page 13, line 1: He called attention ~~,too,~~ *to* the need

Page 15, paragraph 7: "Better candidates are the ~~non-inhibitors~~ *projects without inhibitors such as creeks*."

Page 16, paragraph 8, and line 6: ...before the regular meeting for *RDCS criteria* discussion.

Page 16, paragraph 9, line 4:they reside with~~in School District Boundary~~ the City's Sphere of Influence.

THE MOTION CARRIED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PUBLIC HEARING:

1) REVIEW OF RDCS PROJECTS THAT ARE BEHIND SCHEDULE AND CONSIDER TRANSFER OF FISCAL YEAR BUILDING ALLOCATIONS BETWEEN RDCS PROJECTS

Review of Residential Development Control System (RDCS) projects that are behind schedule and consider transfer of fiscal year building allocations between RDCS projects.

PM Rowe gave the staff report, recalling to the Commissioners that projects which are behind schedule might be considered for possible transfer of FY building allocations between projects. PM Rowe advised this item had been on the May 8 Planning Commission agenda with the Commissioners requesting discussion of the matter {projects behind schedule} be agendized for this meeting to continue discussion and consider possible transfer of fiscal year building allocations between projects, providing direction to staff to implement any agreed upon trades/transfers. However, because of the necessity of preparing for the RDCS workshop preceding the regular meeting, staff time was shorted and organization of trades was not achievable. PM Rowe requested that the Commissioners permit staff continued work on this matter and have it agendized for the June 12 Planning Commission meeting.

Commissioner Mueller asked if, in looking at the Downtown projects which are 2 - 3 years out, there might be any way to work those in to make more units available to some projects now. PM Rowe said staff might be able to figure out some way to assist. Commissioner Mueller said he thought some of the R-2 projects could be building now, and stressed, "We need to maintain downtown allocation rules on trades. The downtown presents unique situations we need to adhere to." Commissioner Lyle commented there were some projects that could achieve that goal

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with a density bonus and they were 'not so far out'. Commissioner Mueller said if the R-2 projects were ready to build, it might be good to build some in the next fiscal year instead of 'waiting 2-plus years'. "We seem to have more people trying to move into 2008-09 instead of 2007-08<" Commissioner Mueller said. PM Rowe advised that for the Downtown efforts the projects could proceed earlier: "They don't have to wait."

Commissioner Mueller clarified that if the projects were out two years, they could be built in 2008-09, and be ready for occupancy at beginning of the new fiscal year.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE REVIEW OF RDCS PROJECTS THAT ARE BEHIND SCHEDULE AND CONSIDER TRANSFER OF FISCAL YEAR BUILDING ALLOCATIONS BETWEEN RDCS PROJECTS TO THE JUNE 12, 2007 PLANNING COMMISSION MEETING. THE MOTION CARRIED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

2) ELBA-07-04: E. DUNNE-KRUSE

A request for a three-year extension of time on three building allotments awarded under the Micro Measure C competition for fiscal year 2006-2007.

AP Golden presented the staff report, providing a brief history of events since the project was seen by the Commissioners. He explained that the current site is subdivided into four lots, and an award of three allocations for a subdivision had been made in a timely manner. Since receiving the allocations, he said, the project has been undergoing an extensive environmental review, including:

- need for lengthy geo-technical surveys and peer reviews (for earthquake induced landslide potential)
- multi-year biological surveys for tiger salamanders and red-legged frogs, which are controlled by State and Federal Wildlife officials

AP Golden advised that the Planning Commission can approve an exception to the loss of building allocations with findings, due to extensive causes beyond the control of the applicant. He added that he had prepared and distributed on the dais a revised Resolution that he was recommending, which incorporated additional findings for justifying the extension.

AP Golden explained the regulations for the multi-year biological surveys for tiger salamanders and red-legged frogs, which will not be able to be completed until May 2009. He said that the request is for a 3-year extension due to the environmental requirements. Referencing the prepared Resolution, AP Golden advised that staff is asking for a more precise schedule of work.

Commissioner Escobar called attention to page 2 of the staff report, asking clarification of the peer review findings. AP Golden explained that both the applicant and the City had retained Geologists, with the finalized peer review indicating differences between the two professionals. Discussion ensued regarding:

- had the applicant elected to go with the City's Geologist, if an extension would be needed? [It would not have mattered as the mitigation for the tiger

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- salamander must be studied providing a greater amount of delay.
- difficulty of speculation regarding biological issues
- when completion of the biological surveys might occur
- City can ask for time lines, but the applicant is at the mercy of weather (two consecutive 'wet years' required for breeding surveys; if one of the species is found, the survey stops)
- reason for survey: to ascertain if the species is there
- Federal Wildlife personnel have shown reluctance to go with a specific individual project but prefer taking a regional approach
- concerns that projects 'that big and with so many working on, it is doubtful that the environmental assessment work can be done timely'

Chair Benich opened, and then closed, the public hearing as there were none present to address the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF THE REVISED RESOLUTION FOR EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MMC-04-10: E. DUNNE-KRUSE TO ALLOW FOR A THREE-YEAR EXCEPTION TO THE BUILDING ALLOCATIONS RECEIVED FOR THREE UNITS FOR FY 2006-07, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN (noting Section 2 item 1: the applicant will provide planning staff with a timeline detailing when process requirements will be fulfilled). COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

3) ELBA-07-05: DEPOT-THE GRANARY

A request for an exception to loss of building allocation and extension of time on a building allotment awarded under the Downtown Small Vertical Mixed-Use RDSCS competition for fiscal years 2006-07 and 2007-08.

PM Rowe presented the staff report, together with an overview of the RDSCS Downtown Competition when the project (The Granary) was awarded building allotments under the Small Vertical Mixed use category. Now, the project must commence construction of the first year building allotment by June 30, 2007 and commence construction of the remaining units by June 30, 2008. PM Rowe briefly commented on the guidelines for downtown allocations which are supplemental from the 100 unit set aside. Therefore, PM Rowe said, there is a desire to add additional units into the project, giving a higher density with a maximum of 15 units.

Discussion between the Commissioners and staff centered on the direction from City Council to add density, with this request being an opportunity of working through the update of the Downtown Plan and add units for the higher density. Planning staff made the recommendation to change the commence construction date from fiscal year 2006-07 (6 units) and 2007-08 (6 units) to fiscal year 2009-10 to allow for completion of the Downtown planning process.

PM Rowe responded to questions of 'significant amenity', noting that in Section 18.47.040(B) of the Municipal Code, there is provision for such. Commissioner Lyle

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recalled that in the application there was a recreation hall provided for and asked if City Code would consider this amenity for a 25% density? "If so," he said, "that could bring the project to 15 units instead of 12 and get the applicant to building sooner."

Chair Benich expressed the opinion that even if the Code made such provision, the applicant would still need additional time. Chair Benich asked about the authority of the Planning Commission in an instance such as this. Referring again to the Code,

PM Rowe clarified that any amenity the Planning Commission agreed to/interpreted would be accepted.

Commissioner Acevedo pointed out that the Commissioners cannot make findings under Section 18.78.125(G) of the Municipal Code, as the project has not yet been started and therefore has not encountered any processing delays.

Chair Benich opened the public hearing.

Lesley Miles, 590 W. Dunne Ave., said she appreciated the pleasure of being on the 'Update for Measure C Subcommittee', and thanked the Commissioners. Ms. Miles reminded that one of biggest focus on the importance of Measure F was increasing Downtown density - not just for specific sites, but the entire Downtown, and gave an overview of the subcommittee meetings and foresight on changing the Downtown at completion from the standard 18 units per acres to higher densities. Ms. Miles said that was the impetus for the request: "We can not proceed, as we could not determine the intended density. If we have the ability to increase density at Depot and Granary from 12 to 15 units, we would be able to proceed more quickly."

Commissioner Lyle clarified that the developer's intent is still just to go with the 12 – but could start earlier with more units by receiving the 25 percent density bonus that City code already allows.

Commissioner Mueller asked, "If all the allocations granted would allow construction to begin in FY 2008-09, would that be ok?" Ms. Miles said, "Yes, that makes more sense from the construction standpoint." Ms. Miles told of applying for 12 units, but knowing realistically that they could have 20 units on the site. She said if there is a decision to withdraw these allocations, she knows she can apply in another competition.

Commissioner Escobar commented that he did not think a decision could be made at this meeting. Ms. Miles said it would be important to have a Planning Commission decision, so that she could make a decision because of zoning, and zoning changes.

The Commissioners discussed:

- developer's intention to build for occupancy in FY 2008-09
- wisdom of asking for an extension 3years>2years and 2years>1year

Commissioner Acevedo spoke to Ms. Miles: "If you have the ability to go to 15 units, but if there is potential to go 20, what do you want?" Ms. Miles responded, "Ideally 20, but we don't want to lose the current allocations." Commissioner Lyle questioned

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whether the property could accommodate the parking needed for 20 units, even if the parking codes are revised lower.

The Commissioners engaged in discussion: This is Measure F. If the developer got the allocations under Measure C, they would not give up the original allocations, but could at this point increase to 15 to go to 20 units, and there would have to be parking considerations, a zone change and probably height regulation changes, two potential changes in the Downtown Plan concern of validity of speculation(s) with the applicant.

Ms. Miles said, "As you go forward with changes in the Ordinances you may not have as many two-bedroom units downtown and so you will need to explore parking changes and regulations."

With no others present to speak to the matter, the public hearing was closed.

The Commissioners discussed:

- need to clarify in the *Resolution* the second *Whereas* language for 'cleaning up' interpretations to ensure that if a developer 'never has to build, but could ask for extensions forever'
- does the density bonus benefit the City/Planning Commission in decision making

Commissioner Acevedo reminded that an extension under Section 18.78.125(G) of the Code needs proof of developer inaction due to circumstances beyond their control. "So we can't make a finding for extension, as there is speculation. The project was approved. Now things may change and the developer wants to wait, that's inaction on the part of the developer."

The 'comfort level' of making a decision on the information presented was discussed.

Commissioner Acevedo reminded that if the Commissioners want to give an extension, a reason must be found.

PM Rowe advised an extension is discretionary and if the allocations are not used, the Commissioners can make other recommendations.

Commissioner Acevedo asked, "Does the density bonus apply here? Do we know that the delay is beyond the control of the City? I think this would have to apply to new information."

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING AN EXCEPTION TO LOSS OF BUILDING ALLOCATION AND APPROVAL OF A ONE-YEAR AND TWO-YEAR EXTENSION OF TIME ON THE RESIDENTIAL BUILDING ALLOTMENT FOR APPLICATION MP-05-12: DEPOT – GRANARY, AND CITING THE USE OF A 25% DENSITY BONUS FOR THE RECREATION HALL AND THE APPLICANT'S MISUNDERSTANDING OF ITS AVAILABILITY AS A REASON FOR THE DELAY. COMMISSIONER ESCOBAR SECONDED THE MOTION, CALLING ATTENTION TO THE FINDINGS AND

CONDITIONS CONTAINED THEREIN, WITH EMPHASIS ON THE SECOND WHEREAS AND APPROVING THE EXTENSION UNDER SECTION 18.78.040(E) OF THE MUNICIPAL CODE, THAT ALLOWS THE CITY COUNCIL TO CARRYOVER UNUSED DOWNTOWN VERTICAL MIXED-USE ALLOCATIONS FROM ONE YEAR TO THE NEXT, FURTHER, WITH ADJUSTMENTS TO THE DATES ACCORDINGLY. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**4) ELBA-07-06:
MONTEREY-
SHERMAN HOUSE**

A request for a one-year extension of time on a building allotment awarded under the Downtown Small Vertical Mixed-Use RDCS competition for fiscal year 2008-09.

PM Rowe gave the staff report, advising that, as with the previous application, there would be the possibility of increasing the Downtown density with an increase in the total number of units to 15. This request, PM Rowe said, is for a one-year extension. He called attention to the revised Resolution which had been prepared, and cited the Resolution as different from the one in Item 3.

Chair Benich opened the public hearing.

Lesley Miles spoke to the Commissioners on this issue, saying “This project is different and this one is even more challenging as it is adjacent to an Opportunity Site (which allows 40 units to the acre). This project site allows only 18 units to the acre and actually could be connected to the Opportunity Site. From a design standpoint it would work well. She noted that the location at Monterey and 1st Street had led to ‘early discussions’ as at this site, in particular, it would not make sense for having 3- and 4-bedroom units but 1- bedrooms and studios. This is an extension; so if we go through the Downtown Density Plan and have more parking and units on this site, it may be well received.”

With no others in attendance indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Lyle commented: “There is a ‘tricky thing’ occurring; historically if a development changed under the established criteria, but still retained the number of points given at scoring, there was not an issue. Here, it makes sense to not have 3 and 4 bedrooms, but redesigning the project to get the preferred smaller units will make it very difficult for the project to maintain its original RDCS score. The new criteria for bedrooms would allow it to meet its old score, but this has not been done before.

The Commissioners discussed the potential of a project having more units, but that would create the need for a set of new criteria. Commissioner Acevedo said, “No, we have set precedence in this issue several years ago when we were dealing with global concerns.” Commissioner Escobar responded, “There could be argument when, as envisioned under Measure F, the contemplated result could be reconsidered for new scoring? I think ‘yes’,”

PM Rowe spoke on the policies in place to implement Measure F, including consideration of the size of projects and discretionary actions by the Commissioners.

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He recalled to the Commissioners, "If a project is given allocations by competition, there must be a minimum score as a threshold for award. However, if density is the emphasis for the project, that project would have to score the same or higher, but there is no mention of another set of criteria,"

Commissioner Lyle remarked, "If this project application cannot be 'compartmentalized', others will want to be rescored."

Chair Benich said he thought the criteria to be 'very specific'.

Chair Benich was requested to reopen the public hearing.

Ms. Miles spoke again, reminding that two years ago, when Measure C was still effective, and she was planning this project, she realized that through the criteria they could not hit the minimum 160 points. "So last year in the Measure C competition for downtown, we focused on one important thing: looking at the goal of what is needed in developing higher density and different housing types. The only challenge was how to make it work. We kept that important vision in mind. It has always been our intent to develop a project that best suits downtown," she said.

Commissioner Lyle said, "We understand you are trying to do that under the existing procedures. Our question: can a way be found to do it?"

Ms. Miles responded, "This is unique because the City wants to encourage development downtown. We do not want to go back to the original scoring criteria."

Commissioner Escobar said, "It may be that looking at the broad scope of Measure F will help to develop policy for this case. We need to decide: whether to retain the prior scoring, but determine if a new set of scoring criteria is warranted."

With no others present to address the matter, the public hearing was closed.

Commissioner Mueller remarked that it did not seem possible to solve all the issues tonight, but a 'quick-fix' would be to add a "Whereas" in the Resolution and make a finding that this extension be granted, as it would be in the best interest of the City to delay the project until the conclusion of the Downtown Plan.

Commissioner Koepp-Baker commented, "This is a unique opportunity and the project can change the way the downtown looks.

Commissioner Lyle said there needs to be some type of change, so when a problem is identified that needs to be fixed, it can be completed quickly and easily.

Commissioner Acevedo asked if staff had talked to the City Attorney. "This is a speculative action of developer inaction. If the project was moving forward, there might not be an issue, but the developer is taking a gamble on changes to the Downtown Plan. However, the way the Ordinance is written, if the City caused the delay for environmental assessments or problems, that would be cause for an extension. This becomes a 'stretch' to link an extension to financial considerations. I would like to find something that fits better. This is developer inaction, but I would

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like for us to find a citation to make it happen.” PM Rowe said the matter could be researched and returned for discussion at a future meeting. Commissioner Acevedo urged that the matter get advice from the City’s Legal Department. Commissioner Escobar said that, at the very least, more discussion was warranted.

COMMISSIONER ESCOBAR MOTIONED TO CONTINUE THE MATTER OF ELBA-07-06: MONTEREY-SHERMAN HOUSE TO THE JUNE 26, 2007 PLANNING COMMISSION MEETING. COMMISSIONER ACEVEDO SECONDED THE MOTION. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Acevedo was excused at 8:15 p.m. for the next agenda item as he owns property across the street from the site under discussion.

**5) DAA-06-06:
MONTEREY-
GUNTER**

A request to amend the current development agreement to allow for a 1-year extension of the “commencement of construction” date for the 15 unit mixed-use residential development located on an approximate one-acre site at 17620 Monterey Rd., north of Main Ave. and east of McLaughlin Ave.

PM Rowe gave the staff report, noting that on Exhibit B commence construction dates have been recommended for change. PM Rowe explained that this was one of first vertical mixed use projects. “As explained in the applicant’s letter, a local design team is working on the project and they are not fully experienced in this type of building construction and a lot of construction details needed to be changed. There have been two plan check cycles and one more is needed before the building permits can be given. Therefore, the project requires a date change to January 31, 2007 to July 31, 2007 to obtain building permits.

Chair Benich opened, and then closed, the public hearing as there were none present to address the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-06-06: MONTEREY – GUNTER FOR APPLICATION MC-05-03: MONTEREY – GUNTER, INCLUSIVE OF THE FINDINGS AND CONDITIONS AND NOTING THE CHANGE TO:

EXHIBIT “B”:

Commence construction FY 2006-07 ~~06-30-2007~~ 06-30-2008

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR APPLICATION DAA-05-03: MONTEREY – GUNTER, INCLUSIVE OF THE FINDINGS AND

CONDITIONS AND WITH THE CHANGE TO:

EXHIBIT "A":

Obtain Building Permits

FY 2006-07 (4 units)

~~01-30-2007~~

09-30-2007

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED (6-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

Commissioner Acevedo returned to the meeting at 8:19 p.m. and was seated on the dais.

Commissioner Escobar was excused at 8:19 p.m.

**6) DAA-05-08:
CHURCH-ALCINI**

A request to amend the current development agreement to allow a 6-month extension of the "commencement of construction" date for the 14-unit project located on the west side of Church St., north of Bisceglia Ave.

PM Rowe gave the staff report, describing the location as being on the west side of Church Street. He called attention to the two Resolutions which had been prepared for consideration by the Commissioners. In the first Resolution the applicant should have pulled building permits by February 28 and should have commenced construction by April 30. The final map process has taken longer than expected, so the applicant would like a 6-month extension. The amended Resolution therefore extends the commencement of construction date from April 30, 2007 to December 31, 2007. Staff supports the 6-month extension to off-set a 3-month City delay of final map processing and the extra 3-months time is required to comply with the planning Division's request to expand the zoning and environmental review to cover the adjacent mixed-use project (at Monterey and Bisceglia Ave.). PM Rowe went on to explain that the second Resolution which amends and incorporates the performance dates into the separate Resolution.

Commissioner Davenport asked for clarification of Exhibit "A" (commencement of construction), as the dates did not add up to six months.

Commissioner Escobar returned at 8:22 p.m. and joined the Commission meeting.

PM Rowe explained that the actual hard deadline would be 6-30-07, but technically the extension would provide for an 8-month extension.

Chair Benich opened, and then closed, the public hearing as there were none present to address the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION DAA-05-08: CHURCH-ALCINI, TO ALLOW FOR AN 8-MONTH EXTENSION OF COMMENCEMENT OF CONSTRUCTION DATE TO 12-30-2007 FOR 14 BUILDING ALLOCATIONS GRANTED FY 2006-07 FOR MC-04-15: CHURCH – ALCINI; WITH

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FURTHER RECOMMENDATION OF THE TRANSFER OF THE DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT "B" OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (7 - 0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDED DEVELOPMENT SCHEDULE ((EXHIBIT "A") FOR APPLICATION MC-04-15: CHURCH - ALCINI. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (7 - 0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**7) SD-07-02/
DAA-04-09:
E. DUNNE-DELCO/
DENOVA**

A request for approval of a 14 lot subdivision map and development agreement amendment to cover phase V of the Jasper Park project currently under construction on the south side of E. Dunne Ave. west of San Benancio Dr.

PM Rowe presented the staff report, advising the Commissioners that this project is known by several names: E. Dunne-Delco, E. Dunne-Delco/DeNova, and Jasper Park. The Mitigated Negative Declaration had been previously adopted, and with this request PM Rowe explained the development agreement amendment proposal, as well as the development schedule which is proposed for amendment by moving the performance dates into a separate Resolution. PM Rowe explained that this project has the possibility to trade for allotments in FY 2007-08, and asked for continuation to the June 12, 2007 Commission meeting so that all known potential trades might be considered at the same time.

Chair Benich opened, and then closed, the public hearing as there were none present to address the matter.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE MATTER OF E. DUNNE-DELCO/DENOVA TO THE JUNE 12, 2007 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

**8) ZA-07-06:
CITY OF MH-
CHANGES TO THE
RDCS STANDARDS
& CRITERIA**

A request to amend Chapter 18.78 of the Morgan Hill Municipal Code, amending the evaluation standards and criteria for proposed residential developments as set forth in Sections 18.78.200 through 18.78.410 of the Municipal Code.

Chair Benich recalled the highlights of the workshop at 6:00 p.m. and said, "Now we have to consider changes to Chapter 18.78 of the Municipal Code (RDCS). PM Rowe advised that the Commissioners needed to particularly focus on the distribution of housing types. Commissioner Lyle, who had been a member of the subcommittee, told of the proposed changes.

Chair Benich opened the public hearing.

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Rocke Garcia, 14500 Sycamore, addressed the Commissioners, calling attention to the quality of construction category on page 28, item c, of the revised document which had been distributed during the workshop, and saying a 'main concern' was that it would be encouraging if the City could get 3-bedroom units Downtown. "I think we should not discourage developers to build 3-bedroom units so families would feel welcomed downtown," Mr. Garcia said as he asked for serious reconsideration of this matter.

Mr. Garcia advised he had talked to Commissioner Davenport during the break earlier in the meeting regarding environmental alternate energy sources. Mr. Garcia told of looking at the Palo Alto project Warmington Homes is building. "They estimate that doing the project with alternate energy systems is adding about \$30,000 to each unit. Commissioner Davenport said he is looking at one for his new home, which will be about \$50,000. It's not worth it for two points," Mr. Garcia said. "If you want to encourage developers to put in alternative energy systems, even increasing by one point creates a situation where it becomes 'pretty hefty' for moderate income buyers to pay extra for those systems."

Discussion ensued regarding 'sell-back energy' and the concerns developers will have regarding dollars versus points.

PM Rowe pointed out that the last item (b) on page 45 speaks to two points for at least 50% of the home electricity requirement using alternative power generation.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Other items discussed were:

- housing types page 24 (revised handout)
- points in Quality of Construction >> 15 listed, but actually 14 (City Council removed 1 of the points)
- need to get points to a 'higher level'
- changes noted in handout
- could count 3 bedrooms as a type / project may have up to a percentage of 3-bedrooms

Commissioner Davenport explained the three-bedroom topic had 'pretty well been talked out' in the last subcommittee meeting: the membership said a buyer could look at the third bedroom as a den or office, but if the occupant wanted to, as a bedroom.

Commissioner Acevedo asked, "Why not points for 3 bedrooms?" Commissioner Davenport responded it was a parking issue, as having the exclusion of the point protecting parking calculations.

Commissioner Mueller said he thought it would be good to allow 3-bedrooms based on the arguments presented by Mr. Garcia. Commissioner Acevedo agreed. Commissioner Lyle told of the subcommittee's concerns of parking spaces. "Any project can have up to 3-bedrooms" he said. Commissioner Lyle added he thought it would be nice to have some 3-bedroom units.

Considerable discussion followed regarding the need/not need to specify 3-bedrooms, and a resultant point system impact.

Chair Benich acquiesced to a request to reopen the public hearing.

Mr. Garcia spoke to the quality of construction energy efficiency, disclaiming the current point system for adding efficient energy items as being 'paltry'. "In today's sales market the value is set by the market," Mr. Garcia said. Responding to a question from Commissioner Lyle, Mr. Garcia addressed the energy efficiency component from a 'downtown standpoint'.

Further discussion centered on power generation and efficient power consumption.

Commissioner Mueller said the City is currently giving points for what is 'standard practice' (energy wise) and suggesting increasing points for more efficiency.

Commissioner Acevedo stressed the need for addressing the 'whole energy question' – not just appliances, but the whole program.

Commissioner Davenport spoke on PG&E criteria which results are confusing in the handout, with the recommendation to remove 'Energy Star' from the criterion.

Mr. Garcia urged the Commissioners to visit the Warmington site in Palo Alto. Mr. Garcia said if a developer adds \$30,000 per unit, there must be increased points to make it worthwhile to make that jump.

As no others indicated an interest in speaking to the matter under discussion, the public hearing was closed.

Substantial discussion ensued regarding:

- payments per kilowatt
- on a 6 kilowatt system either the builder *or* owner can get the benefit
- potential of combine air conditioning with the PG&E new home program and how that would affect the points
- equality of points for energy source and alternative
- concern of increasing in natural and environmental for energy generation
- possibility of getting points in two categories for energy efficiency/alternative energy sources
- recommendations regarding energy (from the subcommittee) would not be effective until 2010

The Commissioners turned to Page 38 (handout) where the emphasis is on circulation efficiency, but a destination to the Plaza is not delineated; PM Rowe explained the actuality of the separate building, but the concern of not 'breaking up' the building mass to maintain a continuous façade along the street and allow the upper balcony to be closed during non-business hours for security. Commissioner Mueller spoke on concerns of cutting off accesses. Commissioner Escobar responded by saying the business district of Morgan Hill does not rely on parking in front of a business to encourage customers.

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Commissioner Mueller said, "I don't see the Community Center parking lot full for downtown parking." Commissioner Escobar told of one of complaints from merchants is that handicapped parking is not sufficient in front of their businesses. Well, I don't believe that the support primarily comes from the handicapped for those businesses. If this Downtown is going to subsist based on parking within 30 seconds of the front door, we may need to rethink. He went on to describe shoppers at Santana Row walk around and around to shops. "They do not drive from the east side to the west side," Commissioner Escobar said. "Our downtown is not that huge. I am not advocating shutting the gates, but if we pick times for closing off the connecting balconies and walkways, it may be detrimental."

Chair Benich said it appeared this (connecting balconies and walkways) had been left 'purposefully ambiguous'. Commissioner Davenport said that if the matter becomes problematic, an Ordinance could be explored. Commissioner Acevedo said, "Not that many projects are affected by this." Commissioner Koepp-Baker agreed, saying it might be two projects at most.

The point system(s) were discussed in the categories of

- Safety and Security (no changes)
- Landscape and Lighting [page 42] conservation of water emphasis [revised point system]
- Natural and environmental

The Natural and Environmental category generated discussion regarding artificial turf versus the use (and promotion of the use) of grey water. Several Commissioners argued vehemently against the inclusion of encouraging artificial turf as a ground cover in the City.

Livable Communities (point system changed because of duplication with Parks and Pathways.

Chair Benich noticed the need to differentiate between *bus stop* and *bus route*. Commissioner Escobar explained a new community bus service which is planned to go into effect June 1 and will focus on quick trip transportation in and around downtown. The anticipated use, he said, will be on demand and flex routing to adjust for trends of growth tracking systems, and radios will be used to provide customer service for pick up and delivery. Commissioner Escobar said a comprehensive analysis for better efficiencies with modifications would be released a year from now on this system.

Suggestions for further study by the subcommittee included:

- points for schools (first page of the section details that if a developer wants more points they have to pay the school fees, but they have to pay them regardless, so why give points? PM Rowe explained this section was affected by State law, with changes to the emphasis on safe walking routes
- City emphasis reducing on the number of schools

COMMISSIONER DAVENPORT MOTIONED TO APPROVE THE CHANGES TO THE RDCS STANDARDS & CRITERIA, AS AMENDED

WITH THE FOLLOWING CHANGES TO EXHIBIT A:

- Page 2, Section 18.78.210 B.2e: change the word the last sentence from ~~first~~ floor to *main* floor.
- Page 14, Section 18.78.240 B.2f: add the following words to the last sentence: *or provides public art approved through the City's Library, Culture and Arts Commission or provides . . .*
- Page 16, Section 18.78.250 B.2: delete the words ~~or more~~ from the second to the last sentence.
- Page 24, Section 18.78.270 B.1a: delete ~~**Visitability units** and Small vertical mixed-use (applies only to projects of 15 units or less in size)~~ from the list of housing types.
- Page 27, Section 18.78.270 B3: add the words "*A project may be awarded points for housing variation under one of the following criteria:*" and renumber criteria B3, B4 and B5 to B3a, B3b and B3c.
- Page 28, Section 18.78.270 new B3c to read as follows: "*For small vertical mixed-use and Downtown Area projects, the variation will be based on number of studio, one and two bedroom units. A project which provides a mix of studio, one bedroom and two bedroom units will receive three points. A project which provides a mix of one and two bedroom units will receive two points. A project which provides dwelling units with two bedrooms only within the development, will receive one point. Each bedroom category must represent at least twenty percent of the total units. Note: Three bedroom units are allowed as part of the remaining percentage of the total dwelling units and will not affect the points given under this criterion.*"
- Page 28, Section 18.78.270: add a new criterion B4 that reads as follows: "*A project providing at least 25 percent of the dwellings as visitability accessible units will be awarded one point. Visitability units are accessible dwellings that have one zero-step entrance on an accessible route; all main floor interiors, including bathrooms, with 32 inches of clear passage space; and at least a half bath on the main floor usable for a person in a wheelchair. (one point)*"
- Page 30, Section 18.78.280 B.2a: Change the maximum assigned under this criterion from five to six.
- Page 30, Section 18.78.280 B.2a: Delete item iii, increase the number of points awarded under item v from two points to four points and move the wording under item vi to end of new item v.
- Page 30, Section 18.78.288 B.2a: add a new point item that reads as follows:
"Project provides for use of alternative energy sources:
a. At least 50% of the homes include alternative power generation

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providing at least 50% of the home electricity requirement. (one point) or

b. All homes provide for use of alternative power generation providing at least 50% of the home electricity requirement. (two points)

- Page 44, Section 18.78.330 B.1e: delete the words “~~Conserves the water—supply by use of artificial turf instead of natural grass and~~” from the first sentence and delete the words “up to” for the number of points to be awarded.
- Page 45, Section 18.78.330 B.2b: change the words “~~and~~ appropriate” to **or** appropriate” in the first sentence.
- Page 48, Section 28.78.335, renumbered criterion B3, delete the words ~~or a ¼ mile of other approved bus routes~~ from the last sentence.

AND FURTHER TO SEND THE DOCUMENT TO THE CITY COUNCIL FOR ADOPTION. COMMISSIONER LYLE SECONDED THE MOTION.

Under discussion, Commissioner Mueller advised he would vote ‘no’, based on the Parks issue. “I think it is a mistake to not fund private parks and not fund maintenance money into the Park fund. There is no guarantee the dollars will provide benefit to the City where they are planned for expenditures for land acquisition. Where they are being planned is wrong - small neighborhood parks have served the City well and this will be a significant mistake,” Commissioner Mueller said.

THE MOTION, WHICH PASSED (6-1-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE; NOES: MUELLER; ABSTAIN: NONE; ABSENT: NONE.

ANNOUNCEMENTS:

Commissioner Escobar led the Commissioners in thanking the Subcommittee for their diligence and hard work.

Commissioner Lyle again thanked the Commissioners and staff for niceties given him for his retirement from the Commission, and gave to PM Rowe his mailbox key, saying, “I am symbolically turning in my key to the City.”

PM Rowe advised that at the City Council meeting of June 6, 2007, {former} Commissioner Lyle will receive a Certificate of Appreciation.

ADJOURNMENT:

Ascertaining there was no further business to be considered by the Commission, Chair Benich adjourned the meeting at 9:50 p.m.

MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk